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7/17/08

July 14, 2008

*Signed
Sweet 7/15/08
7-16-08*

BY FACSIMILE AT (212) 805-7925

Honorable Robert W. Sweet
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Nolasco v. City of New York, et al., 07 CV 3937 (RWS)

Dear Judge Sweet:

I am an attorney in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, counsel for defendants City of New York and Wilfredo Rivera in the above-referenced action brought pursuant to 42 U.S.C. § 1983. I write to advise the Court of the parties' joint request that Your Honor refer this matter for Court-supervised settlement discussions to Magistrate Judge Pitman, the magistrate judge assigned to this case.

As the Court is aware, discovery in this action is currently set to close on August 29, 2008. To date, the parties have made substantial progress in completing written discovery, and each side has retained a consulting expert to evaluate plaintiff's claim of physical injury. However, both sides wish to avoid deposition and expert discovery if this matter can be resolved informally without those expenses. To date, the parties have had several informal discussions concerning settlement. The City also has served a Rule 68 offer of judgment, which plaintiff did not accept. Counsel nevertheless believe that additional, Court-supervised discussions may be productive. As both counsel believe that the issues in this case center principally on conflicting versions of events at the scene of plaintiff's arrest by members of the New York City Police Department, we believe that additional discovery, although costly, will not add significantly to either side's understanding or valuation of the case.

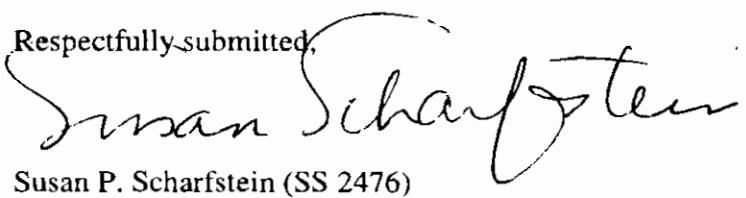
After conferring with plaintiff's counsel, it appears that both counsel and plaintiff are available for a conference during the week of August 4, 2008 (except for August 7). If the

Magistrate Judge were available to hold a conference during that time frame, the parties could commence deposition discovery thereafter if settlement discussions were unsuccessful.¹

For the reasons set forth above, the parties request that the Court refer this matter to Magistrate Judge Pitman for the purpose of a settlement conference to take place during the time frame discussed above or as soon thereafter as the magistrate judge is available.

Thank you for your consideration herein.

Respectfully submitted,



Susan P. Scharfstein (SS 2476)

cc: Arnold J. Levine, Esq.
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¹ The parties might need to request a brief extension of discovery to complete both depositions and expert discovery before this case is trial-ready.